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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

The right to development

Note by the Secretary-General**

Summary

In response to the request contained in paragraph 11 of General Assembly resolution 62/161, entitled "The right to development", the present note provides information on the work of the Human Rights Council Advisory Committee at its first session as it related to the right to development. The Advisory Committee held its first session from 4 to 15 August 2008 during which it considered the requests made by the Human Rights Council in various resolutions. These requests did not include the right to development as a thematic area to be covered by the Advisory Committee and thus no specific action was taken on that issue at its first session. The Advisory Committee, however, considered its action on the issue of the promotion of a democratic and equitable international order. It recalled Council resolution 8/5, which referred to the right to development in paragraph 3 (c), and recommended that it continue its deliberations on this matter at its next session.

* A/63/150 and Corr.1.

** The present note was submitted later than the indicated deadline in order to incorporate the latest available information on the subject matter.

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I. Introduction

1. In paragraph 11 of its resolution 62/161, the General Assembly requested the Human Rights Council to ensure that its Advisory Committee pursues the ongoing work of the Subcommission on the Promotion and Protection of Human Rights on the right to development, in accordance with the relevant provisions of General Assembly and Commission on Human Rights resolutions, and in compliance with decisions to be taken by the Council, and requested the Secretary-General to report on progress in this regard to the Assembly at its sixty-third session. The present report is submitted in response to that request.

II. The work undertaken on the right to development by the Subcommission on the Promotion and Protection of Human Rights

2. In its resolution 2003/83, the Commission requested the Subcommission to prepare a concept document establishing options for the implementation of the right to development and their feasibility, inter alia, an international legal standard of a binding nature, guidelines on the implementation of the right to development and principles for development partnerships, based on the Declaration on the Right to Development (General Assembly resolution 41/128, annex) including issues which any such instrument might address. The Commission also requested the Subcommission, in this respect, to take into account the outcomes of all major United Nations and other global summits and ministerial meetings in the economic and social fields as well as the conclusions of the Working Group on the Right to Development on its third session (E/CN.4/2002/28/Rev.1). The Commission also requested the Office of the United Nations High Commissioner for Human Rights to convene a high-level seminar to contribute to the Subcommission's work, on the proposed concept document. The seminar was held in Geneva on 9 and 10 February 2004. In its decision 2003/116, the Subcommission requested Florizelle O'Connor, of Jamaica, to prepare and submit a working paper identifying and analysing possible alternatives that would enable the Subcommission to respond fully and as effectively as possible to the request of the Commission.

3. Ms. O'Connor submitted a concept document on the right to development (E/CN.4/Sub.2/2005/23) to the Subcommission at its fifty-seventh session. The document outlined three concepts that relate to the right to development: (a) the links between different Subcommission projects and a human rights approach to the right to development; (b) the importance of creating human rights indicators; and (c) the principles for development partnerships. In the concept document she pointed out that the identification of ways to infuse human rights values and principles, into the development process would better serve the realization of the right. In its resolution 2005/17, welcoming her concept document, the Subcommission requested Ms. O'Connor to continue her work and to submit to the Subcommission at its fifty-eighth session a working paper, taking into consideration the discussions at the present session and including, if financial and staff support are available from within existing resources, meeting with people in selected geographic areas to hold discussions and obtain local people's views on development programmes in their community. The Subcommission also decided to submit the concept document, together with a summary of the other views and ideas

on this subject discussed at the fifty-seventh session of the Subcommission to the Commission on Human Rights at its sixty-second session.

4. On 24 August 2006, in its decision 2006/108, the Subcommission, taking note of Ms. O'Connor's request for additional time to complete the requested document, decided, without a vote, to request Ms. O'Connor to submit the document to the Subcommission at its fifty-ninth session, or to the first session of any future expert advice mechanism.

III. Work of the Human Rights Council Advisory Committee as it related to the right to development

5. Following the establishment of the Human Rights Council and the related institution-building process, the Advisory Committee was established by the Council in its resolution 5/1 as the expert advice mechanism of the Human Rights Council. The Advisory Committee, which is composed of 18 experts serving in their personal capacity, is to provide the Council with expertise focusing mainly on studies and research-based advice based upon the Council's request and under its guidance. At its first session, held from 4 to 15 August 2008, the members of the Advisory Committee discussed the mandate entrusted to it by the Council and adopted its working methods. The Advisory Committee also responded to a number of requests made in various Council resolutions. These requests did not include the right to development as a thematic area to be covered at the first session of the Advisory Committees.

6. However, the Advisory Committee discussed the issue of the "promotion of a democratic and equitable international order" in response to Council resolution 8/5 requesting the human rights treaty bodies, the Office of the United Nations High Commissioner for Human Rights and the mechanisms of the Council and the Advisory Committee to pay due attention, within their respective mandates, to the resolution and to make contributions towards its implementation. In the resolution, the Council affirmed that a democratic and equitable international order requires the realization of the right of every human person and all peoples to development, as a universal and inalienable right and an integral part of fundamental human rights (para. 3 (c)). In response to a request by the Advisory Committee and in the context of its consideration of a possible response to the above-mentioned Council resolution, the Secretariat provided a briefing on the work carried out by the United Nations human rights mechanisms in the area of the right to development.

7. The Advisory Committee adopted a number of draft proposals responding to requests emanating from Council resolutions. On 14 August 2008, Ansar Ahmed Burney, member of the Advisory Committee, introduced a draft recommendation to the Council on the promotion of a democratic and equitable international order, according to which the Advisory Committee would continue its deliberations on the matter at its next session (A/HRC/AC/2008/1/L.3). The draft proposal recommended that the Advisory Committee continue its deliberations on this matter at its next session, including by referring to the work that has already been done by the Subcommission and any other human rights mechanisms. The draft recommendation was adopted without a vote (for the text as adopted, see recommendation 1/2 contained in the final report of the Advisory Committee on its first session (A/HRC/AC/1/2). While the above-mentioned action relating to the promotion of a democratic and equitable international order may have implications for its future action on the right to development, the Advisory Committee took no specific action on the right to development during its first session.